



**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:	)	
	)	
KARLA PAYNE,	)	
	)	
Complainant,	)	
	)	Charge No.: 2000CF2741
and	)	EEOC No.: 21BA02191
	)	ALS No.: 11591
ROSELAND CHRISTIAN HEALTH	)	
MINISTRIES, INC., d/b/a	)	
CHRISTIAN COMMUNITY HEALTH	)	
CENTER,	)	
Respondent.	)	

**RECOMMENDED ORDER AND DECISION**

On July 31, 2001, the Illinois Department of Human Rights filed a complaint on behalf of Complainant, Karla Payne. That complaint alleged that Respondent, Roseland Christian Health Ministries, Inc., d/b/a Christian Community Health Center, discriminated against Complainant on the basis of her religion when it discharged her.

On December 4, 2001, Respondent was found to be in default for failure to appear or answer the complaint. On February 11, 2002, a damages hearing was held. Although Respondent was served with notice of that hearing, nobody appeared at the hearing on Respondent's behalf. After the hearing concluded, Complainant filed proposed findings of fact and conclusions of law. Complainant also filed a petition for attorney's fees. Despite being served with those filings, Respondent did not file any

response. The matter is now ready for decision

#### FINDINGS OF FACT

The facts marked with asterisks are facts which were alleged in the complaint in this matter. Those facts were admitted as a result of Respondent's failure to file an answer. The remaining facts are those which were proven by the evidence presented at the damages hearing in this matter.

1. Complainant worked for Respondent as a probationary medical assistant.\*

2. Throughout her employment with Respondent, Complainant performed her job duties in a manner consistent with Respondent's standards.\*

3. On or about January 26, 2000, Respondent discharged Complainant.\*

4. Complainant's religion is Baptist.\*

5. Respondent discharged Complainant because of her religion.\*

6. While employed with Respondent, Complainant worked forty hours per week and earned \$9.00 per hour.

7. After her discharge from Respondent, Complainant's first job was with Family Care of Illinois. Complainant obtained that job in February or March of 2000. She earned \$300.31 before leaving that job because she was not receiving assignments.

8. On or about May 15, 2000, Complainant began working for On-The-Go, a convenience store. She earned \$6.00 per hour and

worked twenty-five hours per week until September 20, 2000.

9. On September 21, 2000, Complainant began work for Comfort Suites. Complainant earned \$5,200.00 in 2000 and \$2,407.50 in 2001 from that job. Complainant left that job when her pay and schedule were reduced.

10. Beginning August 10, 2001, Complainant found a job with the Matteson School District. Her earnings from that position were \$1,000.00 per month, and she received a total of \$4,333.42 in 2001. She held that job through the date of the hearing.

11. Complainant is seeking compensation for the work of attorney Randall Schmidt at the rate of \$250.00 per hour for 40 hours.

12. Complainant is seeking compensation for the work of a law student at the rate of \$75.00 per hour for 100 hours.

13. The requested hourly rates and the requested number of hours are reasonable and should be accepted.

#### CONCLUSIONS OF LAW

1. Complainant is an "aggrieved party" as that term is defined by section 1-103(B) of the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* (hereinafter "the Act").

2. Respondent is an "employer" as defined by section 2-101(B)(1)(a) of the Act and is subject to the provisions of the Act.

3. Because of its failure to appear and answer the complaint in this matter, Respondent has admitted the allegations

of the complaint.

## DISCUSSION

### Liability

In January of 2000, Complainant, Karla Payne, was working as a probationary medical assistant for Respondent, Roseland Christian Health Ministries, Inc., d/b/a Christian Community Health Center. On January 26, 2000, Respondent discharged Complainant.

Complainant subsequently filed a charge against Respondent with the Illinois Department of Human Rights. After conducting an investigation, the Department filed a complaint on Complainant's behalf before the Human Rights Commission.

Despite being served with the complaint, Respondent never appeared to defend itself before the Commission. No answer to the complaint was ever filed. Even after a motion for default was filed, Respondent failed to appear. In light of Respondent's failure to defend itself, an order of default was entered.

Once an order of default is entered, the allegations of the complaint are deemed to be admitted. See ***Bielecki and Illinois Family Planning Council***, 40 Ill. HRC Rep. 109 (1988). As a result, a finding of liability against Respondent is appropriate in this case.

### Damages

A prevailing complainant is presumptively entitled to reinstatement to the job lost because of unlawful discrimination.

In the instant case, though, it appears that Complainant does not desire that form of relief. She did not request reinstatement during the damages hearing in this matter. Moreover, after the hearing, she filed written proposed findings which do not mention reinstatement. Apparently, she is happier with her current position than she would be in Respondent's employ. Therefore, reinstatement is not recommended in this case.

On the other hand, Complainant clearly is entitled to an award of backpay. While employed with Respondent, Complainant worked forty hours per week and earned \$9.00 per hour. From the date of her discharge to the date of the public hearing in this matter was approximately 107 weeks. Thus, at \$360.00 per week, Complainant would have earned \$38,520.00. That figure is the starting point for calculating an appropriate backpay award.

From that initial figure, it is necessary to deduct Complainant's interim earnings. After her discharge from Respondent, Complainant's first job was with Family Care of Illinois. Complainant obtained that job in February or March of 2000. She earned \$300.31 before leaving that job because she was not receiving assignments.

On or about May 15, 2000, Complainant began working for On-The-Go, a convenience store. She earned \$6.00 per hour and worked twenty-five hours per week until September 20, 2000. That eighteen weeks of work earned her \$2,700.00.

On September 21, 2000, Complainant began work for Comfort

Suites. Complainant earned \$5,200.00 in 2000 and \$2,407.50 in 2001 from that job. Complainant left that job when her pay and schedule were reduced.

Beginning August 10, 2001, Complainant found a job with the Matteson School District. Her earnings from that position were \$1,000.00 per month, and she received a total of \$4,333.42 in 2001. She held that job through the date of the hearing, so she earned approximately \$1,500.00 in 2002, through the date of the damages hearing.

When the above figures are added together, it appears that Complainant's interim earnings were \$16,441.23. Deducting that from what she would have earned leaves a net amount of \$22,078.77. That is the recommended backpay award.

Complainant has requested reimbursement for medical expenses, but she failed to prove her entitlement to such an award. She introduced evidence of medical expenses, but did not submit any evidence (not even her own testimony) to indicate that those expenses would have been covered.

Similarly, Complainant failed to prove that she is entitled to compensation for emotional distress. She testified that her discharge caused her to be "stressed" and "upset." She also testified that she cried. However, she did not establish the length or severity of her distress. The Human Rights Commission presumes that recovery of pecuniary losses is generally enough to compensate a complainant for any emotional stress. See *Smith and*

**Cook County Sheriff's Office**, 19 Ill. HRC Rep. 131 (1985). The record in the instant case does not justify deviating from that general presumption.

There is justification, though, for an award of prejudgment interest on the backpay award. Because of the delay in her receipt of the money owed to her such interest is necessary to make Complainant whole.

Respondent should be ordered to clear Complainant's personnel records of any references to this action or to the underlying charge. In addition, Respondent should be ordered to cease and desist from further unlawful discrimination on the basis of religion.

Finally, Complainant should be awarded her reasonable attorney's fees for prosecuting this matter. By failing to respond to Complainant's motion for fees, Respondent has waived the issue of such fees. **Mazzamuro and Titan Security, Ltd.**, \_\_\_ Ill. HRC Rep. \_\_\_, (1989CN3464, October 21, 1991).

Even in the absence of that waiver, Complainant's request should be approved. She is seeking compensation for the work of attorney Randall Schmidt at the rate of \$250.00 per hour for 40 hours. She also is seeking compensation for the work of a law student at the rate of \$75.00 per hour for 100 hours. (The number of hours requested is smaller than the number of hours actually worked according to the submitted documentation.) Both the requested hourly rates and the requested number of hours are

reasonable and should be accepted.

The requested number of hours seems fairly high on first glance, but it should be remembered that it was necessary to file (and prevail on) a Request for Review just to get this case before the Commission. That extra effort resulted in extra attorney's fees and payment of those fees is appropriate.

Multiplying the requested rates by the requested hours results in a total of \$17,500.00 in attorney's fees. That is the recommended award.

#### RECOMMENDATION

Based upon the foregoing, the record establishes that Respondent discriminated against Complainant on the basis of her religion. Accordingly, it is recommended that the complaint in this matter be sustained and that an order be entered awarding Complainant the following relief:

A. That Respondent pay to Complainant the sum of \$22,078.77 for lost backpay;

B. That Respondent pay prejudgment interest on the backpay award, such interest to be calculated as set forth in 56 Ill. Adm. Code, Section 5300.1145;

C. That Respondent pay to Complainant the sum of \$17,500.00 for attorney's fees reasonably incurred in the prosecution of this matter;

D. That Respondent clear from Complainant's personnel records all references to the filing of the underlying charge of



discrimination and the subsequent disposition thereof:

E. That Respondent cease and desist from further unlawful discrimination on the basis of religion.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_  
MICHAEL J. EVANS  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION

ENTERED: September 10, 2002